



# House of Representatives

## File No. 837

General Assembly

January Session, 2011

**(Reprint of File No. 622)**

Substitute House Bill No. 6538  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 23, 2011

### **AN ACT CONCERNING THE COLLECTION OF BLOOD AND OTHER BIOLOGICAL SAMPLES FOR DNA ANALYSIS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Any person who has been convicted of a criminal offense against  
4 a victim who is a minor, a nonviolent sexual offense or a sexually  
5 violent offense, as those terms are defined in section 54-250, or a  
6 felony, and has been sentenced on that conviction to the custody of the  
7 Commissioner of Correction shall, prior to release from custody and at  
8 such time as the commissioner may specify, submit to the taking of a  
9 blood or other biological sample of sufficient quality for DNA  
10 (deoxyribonucleic acid) analysis to determine identification  
11 characteristics specific to the person. If any person required to submit  
12 to the taking of a blood or other biological sample pursuant to this  
13 subsection refuses to do so, the Commissioner of Correction or the  
14 commissioner's designee shall notify the Department of Public Safety  
15 within thirty days of such refusal for the initiation of criminal  
16 proceedings against such person.

17 (b) Any person who is convicted of a criminal offense against a  
18 victim who is a minor, a nonviolent sexual offense or a sexually violent  
19 offense, as those terms are defined in section 54-250, or a felony and is  
20 not sentenced to a term of confinement shall, as a condition of such  
21 sentence and at a time and place specified by the Court Support  
22 Services Division of the Judicial Department, submit to the taking of a  
23 blood or other biological sample of sufficient quality for DNA  
24 (deoxyribonucleic acid) analysis to determine identification  
25 characteristics specific to the person.

26 (c) Any person who has been found not guilty by reason of mental  
27 disease or defect pursuant to section 53a-13 of a criminal offense  
28 against a victim who is a minor, a nonviolent sexual offense or a  
29 sexually violent offense, as those terms are defined in section 54-250, or  
30 a felony, and is in the custody of the Commissioner of Mental Health  
31 and Addiction Services or the Commissioner of Developmental  
32 Services as a result of that finding, shall, prior to [discharge from  
33 custody in accordance with subsection (e) of section 17a-582, section  
34 17a-588 or subsection (g) of section 17a-593] a court hearing  
35 commenced in accordance with subsection (d) of section 17a-582, and  
36 at such time as the Commissioner of Mental Health and Addiction  
37 Services or the Commissioner of Developmental Services with whom  
38 such person has been placed may specify, submit to the taking of a  
39 blood or other biological sample of sufficient quality for DNA  
40 (deoxyribonucleic acid) analysis to determine identification  
41 characteristics specific to the person.

42 (d) Any person who has been convicted of a criminal offense against  
43 a victim who is a minor, a nonviolent sexual offense or a sexually  
44 violent offense, as those terms are defined in section 54-250, or a  
45 felony, and is serving a period of probation or parole, and who has not  
46 submitted to the taking of a blood or other biological sample pursuant  
47 to subsection (a), (b) or (c) of this section, shall, prior to discharge from  
48 the custody of the Court Support Services Division or the Department  
49 of Correction and at such time as said division or department may  
50 specify, submit to the taking of a blood or other biological sample of

51 sufficient quality for DNA (deoxyribonucleic acid) analysis to  
52 determine identification characteristics specific to the person.

53 (e) Any person who has been convicted or found not guilty by  
54 reason of mental disease or defect in any other state or jurisdiction of a  
55 felony or of any crime, the essential elements of which are  
56 substantially the same as a criminal offense against a victim who is a  
57 minor, a nonviolent sexual offense or a sexually violent offense, as  
58 those terms are defined in section 54-250, and is in the custody of the  
59 Commissioner of Correction, is under the supervision of the Judicial  
60 Department or the Board of Pardons and Paroles or is under the  
61 jurisdiction of the Psychiatric Security Review Board, shall, prior to  
62 discharge from such custody, supervision or jurisdiction submit to the  
63 taking of a blood or other biological sample of sufficient quality for  
64 DNA (deoxyribonucleic acid) analysis to determine identification  
65 characteristics specific to the person.

66 (f) If the blood or other biological sample taken from a person  
67 pursuant to this section is not of sufficient quality for DNA  
68 (deoxyribonucleic acid) analysis to determine identification  
69 characteristics specific to the person, the person shall submit to the  
70 taking of an additional sample or samples until a sample of sufficient  
71 quality is obtained.

72 ~~[(f)]~~ (g) The analysis shall be performed by the Division of Scientific  
73 Services within the Department of Public Safety. The identification  
74 characteristics of the profile resulting from the DNA analysis shall be  
75 stored and maintained by the division in a DNA data bank and shall  
76 be made available only as provided in section 54-102j, as amended by  
77 this act.

78 ~~[(g)]~~ (h) Any person who refuses to submit to the taking of a blood  
79 or other biological sample pursuant to this section or wilfully fails to  
80 appear at the time and place specified pursuant to subsection (b) of  
81 this section for the taking of a blood or other biological sample shall be  
82 guilty of a class D felony. Any person required to submit to the taking

83 of a blood or other biological sample pursuant to subsection (b) of this  
84 section who [refuses] wilfully fails to appear to submit to the taking of  
85 such sample within five business days of the time specified by the  
86 Court Support Services Division may be arrested pursuant to a  
87 warrant issued under section 54-2a.

88 (i) If any person required to submit to the taking of a blood or other  
89 biological sample pursuant to any provision of this section is in the  
90 custody of the Commissioner of Correction and refuses to submit to  
91 the taking of such sample, the commissioner or the commissioner's  
92 designee may use reasonable force to obtain a blood or other biological  
93 sample from such person.

94 Sec. 2. Section 54-102j of the general statutes is repealed and the  
95 following is substituted in lieu thereof (*Effective October 1, 2011*):

96 (a) It shall be the duty of the Division of Scientific Services within  
97 the Department of Public Safety to receive blood or other biological  
98 samples and to analyze, classify and file the results of DNA  
99 identification characteristics profiles of blood or other biological  
100 samples submitted pursuant to section 54-102g, as amended by this  
101 act, and to make such information available as provided in this section.  
102 The results of an analysis and comparison of the identification  
103 characteristics from two or more blood or other biological samples  
104 shall be made available directly to federal, state and local law  
105 enforcement officers upon request made in furtherance of an official  
106 investigation of any criminal offense. Only when a sample or DNA  
107 profile supplied by the person making the request satisfactorily  
108 matches a profile in the data bank shall the existence of data in the data  
109 bank be confirmed or identifying information from the data bank be  
110 disseminated, except that if the results of an analysis and comparison  
111 do not reveal a match between the sample or samples supplied and a  
112 DNA profile contained in the data bank, the division may, upon  
113 request of the law enforcement officer, indicate whether the DNA  
114 profile of a named individual is contained in the data bank provided  
115 the law enforcement officer has a reasonable and articulable suspicion

116 that such individual has committed the criminal offense being  
117 investigated. A request pursuant to this subsection may be made by  
118 personal contact, mail or electronic means. The name of the person  
119 making the request and the purpose for which the information is  
120 requested shall be maintained on file with the division.

121 (b) Upon the request of a person from whom a blood or other  
122 biological sample has been taken pursuant to sections 54-102g, as  
123 amended by this act, and 54-102h, a copy of such person's DNA profile  
124 shall be furnished to such person.

125 (c) Upon the request of any person identified and charged with an  
126 offense as the result of a search of information in the data bank, a copy  
127 of the request for a search shall be furnished to such person so  
128 identified and charged. [Only when a sample or DNA profile supplied  
129 by the person making the request satisfactorily matches a profile in the  
130 data bank shall the existence of data in the data bank be confirmed or  
131 identifying information from the data bank be disseminated.]

132 (d) The Department of Public Safety shall adopt regulations, in  
133 accordance with the provisions of chapter 54, governing (1) the  
134 methods of obtaining information from the data bank in accordance  
135 with this section, and (2) procedures for verification of the identity and  
136 authority of the person making the request. The department shall  
137 specify the positions in that agency which require regular access to the  
138 data bank and samples submitted as a necessary function of the job.

139 (e) The Division of Scientific Services shall create a separate  
140 statistical data base comprised of DNA profiles of blood or other  
141 biological samples of persons whose identity is unknown. Nothing in  
142 this section or section 54-102k shall prohibit the Division of Scientific  
143 Services from sharing or otherwise disseminating the information in  
144 the statistical data base with law enforcement or criminal justice  
145 agencies within or without the state.

146 (f) The Division of Scientific Services may charge a reasonable fee to  
147 search and provide a comparative analysis of DNA profiles in the data

148 bank to any authorized law enforcement agency outside of the state.

149 Sec. 3. Subsection (b) of section 17a-582 of the general statutes is  
150 repealed and the following is substituted in lieu thereof (*Effective*  
151 *October 1, 2011*):

152 (b) Not later than sixty days after the order of commitment pursuant  
153 to subsection (a) of this section, the superintendent of such hospital or  
154 the Commissioner of Developmental Services shall cause the acquittee  
155 to be examined and file a report of the examination with the court, and  
156 shall send a copy thereof to the state's attorney and counsel for the  
157 acquittee, setting forth the superintendent's or said commissioner's  
158 findings and conclusions as to whether the acquittee is a person who  
159 should be discharged. The report shall indicate whether the acquittee  
160 submitted or refused to submit to the taking of a blood or other  
161 biological sample pursuant to subsection (c) of section 54-102g, as  
162 amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	54-102g
Sec. 2	<i>October 1, 2011</i>	54-102j
Sec. 3	<i>October 1, 2011</i>	17a-582(b)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Public Safety, Dept.	GF - Cost	Less than \$5,000	Less than \$5,000
Various State Agencies	GF - Cost	Minimal	Minimal

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill results in a minimal impact to various agencies by authorizing agencies to take repeat DNA samples of sex offenders and felons under their supervision or confinement in order to obtain a sufficient quality sample. The average cost of a DNA test kit is approximately \$6.00.

The bill also results in a cost of approximately \$2,500 to the Department of Public Safety (DPS) to process any additional samples produced under the bill. It is estimated that there are approximately 50 such cases where offenders failed to provide a sufficient sample. To the extent that there are more or less insufficient samples provided, the cost to DPS and the various agencies will either increase or decrease accordingly.

House "A" alters the original bill by (1) clarifying that the failure to submit a required DNA sample is a willful act and (2) making procedural changes related to the dissemination of information in the DNA profile databank. There is no associated fiscal impact.

#### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.



**OLR Bill Analysis****sHB 6538 (as amended by House "A")\******AN ACT CONCERNING THE COLLECTION OF BLOOD AND OTHER BIOLOGICAL SAMPLES FOR DNA ANALYSIS.*****SUMMARY:**

By law, sex offenders and felons must submit DNA samples, which are analyzed by the Department of Public Safety's forensic laboratory and entered into its DNA data bank. The law requires that the sample be of sufficient quality to determine a person's identity. This bill authorizes the various agencies under whose authority sex offenders and felons are confined or supervised to take repeat samples until one of sufficient quality is obtained. (The pertinent agencies are: the Board of Pardons and Paroles, Court Support Services Division, (CSSD) Department of Correction (DOC), Department of Developmental Services (DDS), Department of Mental Health and Addiction Services (DMHAS), and the Psychiatric Security Review Board.)

The bill also:

1. authorizes DOC to use reasonable force to obtain the sample from felons and sex offenders in its custody;
2. makes it a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both, to willfully fail to appear at the scheduled time and place to submit a sample, instead of failing to submit a sample; and
3. requires the first report DMHAS or DDS files with the court that addresses whether an acquittee should be discharged from custody to indicate whether the individual has submitted or refused to submit a DNA sample.

The bill allows DNA data bank information to be supplied to law enforcement officers to rule out criminal suspects. Currently, the Department of Public Safety's forensic laboratory can confirm the existence of data in the data bank only when a sample or DNA profile supplied by a law enforcement officer matches a profile in the data bank. Under the bill, if there is no match, the laboratory can disclose, at the officer's request, whether the data bank contains the profile of a named suspect. The requestor must have a reasonable and articulable suspicion that such individual has committed the offense being investigated.

The bill subjects people to arrest for willfully refusing to submit a sample to CSSD. It also moves up the date for taking a sample from a DMHAS or DDS detainee to the date of the first court hearing after commitment. It currently is taken at the court hearing immediately preceding a temporary or permanent community release.

\*House Amendment "A" (1) eliminates civil immunity for negligence claims involving those having access to the data base; (2) makes it a Class D felony to willfully fail to appear to submit to the taking of a DNA sample, rather than to fail to submit a sample; and (3) requires law enforcement officers to have a legal basis for asking whether the data bank contains a DNA profile of a suspect.

EFFECTIVE DATE: October 1, 2011

## **BACKGROUND**

### ***Related Bills***

HB 6489 (File 594), which the House referred to the Appropriations Committee, requires, beginning October 1, 2011, people arrested for any of 39 serious felony offenses to provide a DNA sample before they are released from custody. The law enforcement agency that makes the arrest sets the time and place for collecting, and collects the samples.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea     41     Nay   0     (04/06/2011)